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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/445,945	04/10/2000	WEH WOLFGANG	KKFI34.001AP	1585

7590 07/09/2003  
KNOBBE MARTENS OLSON & BEAR  
620 NEWPORT CENTER DRIVE  
SIXTEENTH FLOOR  
NEWPORT BEACH, CA 92660-8016

EXAMINER

FOX, JOHN C

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 07/09/2003

21

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/445945

Applicant(s)

Examiner

Kux

Group Art Unit

3753

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 5/27/03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 15-23, 25-26, 29-33, 35-45 is/are pending in the application.
- Of the above claim(s) 15-23, 25-26, 29, 38-45 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 30-33, 35-37 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 3753

This action is responsive to the communication filed May 27, 2003.

Claims 1-14, 24, 27-28 and 34 have been cancelled.

Claims 15-23, 25-26, 29 and 38-45 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b) as being drawn to a nonelected invention. Election of Group II, claims 30-37, was made without traverse in Paper No. 14.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 30-31, 33 and 36-37 are rejected under 35 U.S.C. § 103 as being unpatentable over Krechel et al. Krechel et al show a gas cylinder valve with inlet 9, filler check valve 11, discharge 31, valve 41 and actuator 56. The valve of Krechel et al is inherently "adapted", or fit, to be used with a filling station that is "capable of being automated". Making the discharge 31 of Krechel et al integral with the main body is considered to be an obvious variation thereof. Making the inlet and the outlet of the same size and shape is considered to be an obvious matter of design choice.

Applicant's remarks have been fully considered but are not deemed to be persuasive. Filler check valve 11 is a Schraeder valve and does not require a screw connection to the filler. It is the same as a tire inflation valve which requires only axial motion. As to the one piece construction, it has been held that

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"forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art". *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893). In this case, the modification of Krechel et al is so trivial that it is believed to fit the cited case.

Claim 32 is rejected under 35 U.S.C. § 103 as being unpatentable over Krechel et al in view of Sakai et al. Krechel et al show the claimed valve except for a check valve in the discharge line. Sakai et al teach an outlet check valve 13 to prevent back flow into the tank when the main valve is open. It would have been obvious for one of ordinary skill in the art to have used such a check valve in the valve of Krechel et al.

Claim 35 is rejected under 35 U.S.C. § 103 as being unpatentable over Krechel et al in view of Oxley et al. Krechel et al show the claimed invention except for the groove on the filling union. Oxley et al shows an automatic cylinder filling apparatus which includes a groove 62 on the filling union of the cylinder to latch to the filling head. It would have been obvious for one of ordinary skill in the art to have used such a groove on the filling union of Krechel et al to provide for the use of an automatic filling head such as taught by Oxley et al.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).


Serial Number: 09/445945

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A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication should be directed to Examiner Fox at (703) 308-2595 or John.Fox@uspto.gov. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861. The fax number for TC 3700 is 703-872-9302. For responses after final the fax number is 703-872-9303. The Supervisory Primary Examiner for Art Unit 3753 is Mikado Buiz who can be reached at (703) 308-2580 or at Michael.Buiz@uspto.gov.

  
JOHN FOX  
PRIMARY EXAMINER  
ART UNIT 3753

jcf  
July 8, 2003